

AMENDED IN ASSEMBLY APRIL 13, 2010

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1678**

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**Introduced by Assembly Members Lieu and Huber**

January 25, 2010

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An act to amend Section 3000.03 of, and to add Sections 3000.04, 3000.06, and 3000.08 to, the Penal Code, relating to parole.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1678, as amended, Lieu. Prisoners: parole.

Existing law requires the Department of Corrections and Rehabilitation to release a prisoner on a specified period of parole after the expiration of a term of imprisonment. Under existing law, the department is authorized to return a parolee to prison if the Board of Parole Hearings determines that the parolee violated the terms of his or her parole, as specified.

Under existing law the department is prohibited from returning a parolee to prison, placing a parole hold on the parolee, or reporting the parolee to the Board of Parole Hearings for a violation of parole, if the parolee has not committed a violent or serious felony, is not required to register as a sex offender, was not found guilty of a serious disciplinary offense while in prison, is not a validated member of a prison gang, and has been determined by using a validated risk assessment tool as not posing a high risk to refined, as specified.

This bill would provide that a person shall not be granted nonrevocable parole, as described above, if he or she is required to register pursuant to the California Street Terrorism Enforcement and Prevention Act, is



listed on the CalGang System, or has identified himself or herself as a gang member to a staff member of the Department of Corrections and Rehabilitation. The bill would provide that a person shall not be granted nonrevocable parole if the person was committed to prison for solicitation of murder, *involuntary manslaughter*, stalking, or domestic violence, *possession of an explosive or destructive device*, *unlawfully causing a fire to an inhabited structure*, *cruelty against children*, *battery resulting in serious bodily injury*, *battery against a peace officer*, *evading a police officer*, or if the person has a previous conviction for one of these crimes. The bill would also provide that a person shall not be granted nonrevocable parole if an objection to the person's parole, by a local law enforcement agency, has been sustained by either the Secretary of the Department of Corrections and Rehabilitation or the Board of Parole Hearings, as specified.

This bill would require the department to inform a local law enforcement agency within 48 hours of determining that a prisoner is eligible to be released on nonrevocable parole in the local agency's jurisdiction, and to provide local law enforcement 10 business days to object to the person's release. This bill would require the Secretary of the Department of Corrections and Rehabilitation, or his or her designee, to review any objection and to not grant nonrevocable parole if the department concurs with the objection. If the department does not concur, the bill would require the Board of Parole Hearings to hold a public hearing in which the person's victims would be permitted to testify, and would require a  $\frac{2}{3}$  vote of the board to release the person on nonrevocable parole.

This bill would require the department to provide certain information on its Internet Web site regarding inmates released to nonrevocable parole, as specified. This bill would require that parole information be accessible to law enforcement agencies through the California Law Enforcement Telecommunications System, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. It is the intent of the Legislature to enhance public
- 2 safety and reduce recidivism by reasonable, commonsense reforms
- 3 that will mitigate the effects of releasing thousands of convicted
- 4 felons early, and in some cases without parole supervision, as a



1 result of the passage of Senate Bill 18 of the 2009–10 Third  
2 Extraordinary Session.

3 SEC. 2. Section 3000.03 of the Penal Code is amended to read:

4 3000.03. Notwithstanding any other provision of law, the  
5 Department of Corrections and Rehabilitation shall not return to  
6 prison, place a parole hold on pursuant to Section 3056, or report  
7 any parole violation to the Board of Parole Hearings regarding any  
8 person to whom all of the following criteria apply:

9 (a) The person is not required to register as a sex offender  
10 pursuant to Chapter 5.5 (commencing with Section 290) of Title  
11 9 of Part 1.

12 (b) The person was not committed to prison for a serious felony  
13 as defined in Sections 1192.7 and 1192.8, or a violent felony, as  
14 defined in Section 667.5, and does not have a prior conviction for  
15 a serious felony, as defined in Section 1192.7 and 1192.8, or a  
16 violent felony, as defined in Section 667.5.

17 (c) The person was not committed to prison for a sexually  
18 violent offense as defined in subdivision (b) of Section 6600 of  
19 the Welfare and Institutions Code and does not have a prior  
20 conviction for a sexually violent offense as defined in subdivision  
21 (b) of Section 6600 of the Welfare and Institutions Code.

22 ~~(d) The person was not committed to prison for solicitation of~~  
23 ~~murder as defined in Section 653f, or stalking as defined in Section~~  
24 ~~646.9, or domestic violence as defined in Section 273.5, and does~~  
25 ~~not have a prior conviction for any of the crimes specified in this~~  
26 ~~subdivision.~~

27 *(d) The person was not committed to prison for solicitation of*  
28 *murder as defined in Section 653f, or for involuntary manslaughter*  
29 *as defined in subdivision (b) of Section 192, and does not have a*  
30 *prior conviction for either of those crimes.*

31 *(e) The person was not committed to prison for stalking as*  
32 *defined in Section 646.9, or for domestic violence as defined in*  
33 *Section 273.5, or has been convicted of a felony offense based on*  
34 *allegations of domestic violence as defined in Section 6211 of the*  
35 *Family Code, and does not have a prior conviction for any of these*  
36 *crimes.*

37 *(f) The person was not committed to prison for possession of*  
38 *an explosive or destructive device as defined in Section 12303.2,*  
39 *or for unlawfully causing a fire that causes an inhabited structure*  
40 *or inhabited property to burn as defined in subdivision (b) of*



1 *Section 452, and does not have a prior conviction for either of*  
2 *these crimes.*

3 *(g) The person was not committed to prison for cruelty against*  
4 *children as defined in Section 273d, or for battery resulting in*  
5 *serious bodily injury as defined in subdivision (d) of Section 243,*  
6 *and does not have a prior conviction for either of these crimes.*

7 *(h) The person was not committed to prison for battery against*  
8 *an official as defined in subdivision (b) of Section 243, or for*  
9 *evading a peace officer as defined in Vehicle Code Section 2800.2,*  
10 *and does not have a prior conviction for any of these crimes.*

11 ~~(e)~~  
12 *(i) The person was not found guilty of a serious disciplinary*  
13 *offense, as defined in regulation by the department, during his or*  
14 *her current term of imprisonment.*

15 ~~(f)~~  
16 *(j) The person is not a validated prison gang member or*  
17 *associate, as defined in regulation by the department.*

18 ~~(g)~~  
19 *(k) The person is not required to register pursuant to Section*  
20 *186.30, is not listed on the CalGang System operated by the*  
21 *Department of Justice, and has not identified himself or herself as*  
22 *a gang member to the department's staff.*

23 ~~(h)~~  
24 *(l) The person did not refuse to sign any written notification of*  
25 *parole requirements or conditions, including, but not limited to,*  
26 *the written notification of requirements pursuant to Section 3067.*

27 ~~(i)~~  
28 *(m) The person was evaluated by the department using a*  
29 *validated risk assessment tool and was not determined to pose a*  
30 *high risk to reoffend.*

31 ~~(j)~~  
32 *(n) An objection to the person's parole, by a local law*  
33 *enforcement agency, has not been sustained by either the secretary*  
34 *or his or her designee or by the Board of Parole Hearings pursuant*  
35 *to Section 3000.04.*

36 SEC. 3. Section 3000.04 is added to the Penal Code, to read:

37 3000.04. (a) The Department of Corrections and Rehabilitation  
38 shall notify all local law enforcement agencies in the jurisdiction  
39 to which a person may be released pursuant to Section 3000.03  
40 within 48 hours of a determination being made by the department



1 that the person satisfies the requirements of subdivisions (a) to (i),  
2 inclusive, of Section 3000.03.

3 (b) The local law enforcement agencies in the jurisdiction to  
4 which the person may be released shall have 10 business days,  
5 commencing on the first business day following receipt of the  
6 notice made by the department pursuant to subdivision (a), to  
7 object in writing to the person's release. The local law enforcement  
8 agency shall send its written objections to the secretary of the  
9 department.

10 (c) The secretary, or a person designated by the secretary for  
11 this purpose, shall review any objection made by a local law  
12 enforcement agency.

13 (d) If the secretary, or his or her designee, concurs with an  
14 objection made by a local law enforcement agency, the objection  
15 is upheld and the person shall not be granted parole pursuant to  
16 Section 3000.03.

17 (e) If the secretary, or his or her designee, does not concur with  
18 an objection made by a local law enforcement agency, the Board  
19 of Parole Hearings shall hold a public hearing, and a majority of  
20 the commissioners holding office on the date the matter is heard  
21 by the board shall conduct an en banc review of the matter. At the  
22 hearing, the board shall hear testimony from any victim of any  
23 crime for which the person has been convicted, and any local law  
24 enforcement agency in the jurisdiction to which the person may  
25 be released. The board shall vote on whether to grant parole  
26 pursuant to Section 3000.03. A vote to grant parole pursuant to  
27 Section 3000.03 shall require two-thirds of the commissioners  
28 voting.

29 SEC. 4. Section 3000.06 is added to the Penal Code, to read:

30 3000.06. If a person is released on parole pursuant to Section  
31 3000.03, that fact shall be entered into the California Law  
32 Enforcement Telecommunications System.

33 SEC. 5. Section 3000.08 is added to the Penal Code, to read:

34 3000.08. (a) For all persons paroled pursuant to Section  
35 3000.03, the Department of Corrections and Rehabilitation shall  
36 provide the following information on its Internet Web site:

37 (1) The total number of persons paroled pursuant to Section  
38 3000.03.

39 (2) The crimes for which the parolees have been convicted. The  
40 department shall list each relevant crime and the corresponding



1 number of persons who have been released who have been  
2 convicted of that crime. The tally of persons convicted of a crime  
3 shall include prior convictions and convictions for which the  
4 persons are on parole.

5 (b) The information provided by the department pursuant to this  
6 subdivision shall not include the parolees' names or other personal  
7 identifying information.